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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100120037-1626-02 and 101217620-1788-03]

RIN 0648-XE491

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic;
2016 Accountability Measure-based Closures for Commercial and
Recreational Species in the U.S. Caribbean off Puerto Rico**

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closures.

SUMMARY: NMFS implements accountability measures (AMs) for species and species groups in the exclusive economic zone (EEZ) of the U.S. Caribbean off Puerto Rico for the 2016 fishing year through this temporary rule. NMFS has determined that annual catch limits (ACLs) in the EEZ off Puerto Rico were exceeded for spiny lobster; the commercial sectors for triggerfish and filefish, wrasses, Snapper Unit 2, and parrotfishes; and the recreational sector for jacks, based on average landings during the 2012-2014 fishing years. This temporary rule reduces the lengths of the 2016 fishing seasons for these species and

species groups by the amounts necessary to ensure that landings do not exceed the applicable ACLs in 2016. NMFS closes the applicable sectors for these species and species groups beginning on the dates specified below (in the **DATES** section) and continuing until the end of the fishing year, December 31, 2016. These AMs are necessary to protect the Caribbean reef fish and spiny lobster resources in the EEZ off Puerto Rico.

DATES: This rule is effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*], until 12:01 a.m., local time, January 1, 2017. The AMs apply in the EEZ off Puerto Rico for the following species and species groups, and fishing sectors, at the times and dates specified below, until 12:01 a.m., local time, January 1, 2017.

- Triggerfish and filefish, combined (commercial) effective at 12:01 a.m., local time, October 16, 2016;
- Jacks (recreational) effective at 12:01 a.m., local time, November 4, 2016;
- Wrasses (commercial) effective at 12:01 a.m., local time, November 16, 2016;
- Snapper Unit 2 (commercial) effective at 12:01 a.m., local time, November 26, 2016;
- Spiny lobster (commercial and recreational) effective at

12:01 a.m., local time, December 10, 2016;

- Parrotfishes (commercial) effective at 12:01 a.m., local time, December 19, 2016.

FOR FURTHER INFORMATION CONTACT: William S. Arnold, NMFS Southeast Regional Office, telephone: 727-824-5305, e-mail: *bill.arnold@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Caribbean, which includes triggerfish and filefish, wrasses, snappers in Snapper Unit 2, parrotfishes, and jacks, is managed under the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (Reef Fish FMP). Caribbean spiny lobster is managed under the FMP for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands (Spiny Lobster FMP). The FMPs were prepared by the Caribbean Fishery Management Council (Council) and are implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The 2010 Caribbean ACL Amendment (Amendment 2 to the FMP for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (Queen Conch FMP) and Amendment 5 to the Reef Fish FMP) and 2011 Caribbean ACL Amendment (Amendment 3 to the Queen Conch

FMP, Amendment 6 to the Reef Fish FMP, Amendment 5 to the Spiny Lobster FMP, and Amendment 3 to FMP for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands) revised the Reef Fish and Spiny lobster FMPs (76 FR 82404, December 30 2011, and 76 FR 82414, December 30, 2011). Among other actions, the 2010 and 2011 Caribbean ACL Amendments and the associated final rules established ACLs and AMs for Caribbean spiny lobster and reef fish, including the species and species groups identified in this temporary rule. The 2010 and 2011 Caribbean ACL Amendments and final rules also allocated ACLs among three Caribbean island management areas, *i.e.*, the Puerto Rico, St. Croix, and St. Thomas/St. John management areas of the EEZ, as specified in Appendix E to part 622. The ACLs for species and species groups in the Puerto Rico management area, except for spiny lobster, were further allocated between the commercial and recreational sectors, and AMs apply to each of these sectors separately.

On May 11, 2016, NMFS published the final rule implementing the Comprehensive AM Application Amendment to the U.S. Caribbean FMPs: Application of Accountability Measures and additional regulatory clarifications (81 FR 29166). Among other things, the final rule clarified that the spiny lobster ACL for

the Puerto Rico management area is applied as a single ACL for both the commercial and recreational sectors, consistent with the Council's intent in the 2011 Caribbean ACL Amendment. Additionally, the final rule clarified the fishing restrictions that occur in the Caribbean EEZ when an ACL is exceeded and an AM is implemented.

The ACLs for the applicable species and species groups, and fishing sectors in the EEZ off Puerto Rico covered by this temporary rule are as follows and are given in round weight:

- The commercial ACL for triggerfish and filefish, combined, is 58,475 lb (26,524 kg), as specified in § 622.12(a) (1) (i) (Q).
- The commercial ACL for wrasses is 54,147 lb (24,561 kg), as specified in § 622.12(a) (1) (i) (L).
- The commercial ACL for Snapper Unit 2 is 145,916 lb (66,186 kg), as specified in § 622.12(a) (1) (i) (D).
- The ACL for spiny lobster is 327,920 lb (148,742 kg), as specified in § 622.12(a) (1) (iii).
- The commercial ACL for parrotfishes is 52,737 lb (23,915 kg), as specified in § 622.12(a) (1) (i) (B).
- The recreational ACL for jacks is 51,001 lb (23,134 kg), as specified in § 622.12(a) (1) (ii) (M).

In accordance with regulations at 50 CFR 622.12(a), if landings from a Caribbean island management area are estimated to have exceeded the applicable ACL, the Assistant Administrator for NOAA Fisheries (AA), will file a notification with the Office of the Federal Register to reduce the length of the fishing season for the applicable species or species group the following fishing year by the amount necessary to ensure landings do not exceed the applicable ACL. NMFS evaluates landings relative to the applicable ACL based on a moving 3-year average of landings, as described in the FMPs.

Based on the most recent landings data, from the 2012-2014 fishing years, NMFS has determined that the ACLs for spiny lobster; the commercial sectors for triggerfish and filefish, wrasses, Snapper Unit 2, spiny lobster, and parrotfishes; and the recreational sector of jacks have been exceeded. In addition, NMFS has determined that the ACLs for these species and species groups were exceeded because of increased catches and not as a result of enhanced data collection and monitoring efforts.

This temporary rule implements AMs for the identified commercial and recreational sectors for the species and species groups listed in this temporary rule, to reduce the 2016 fishing

season lengths to ensure that landings do not exceed the applicable ACLs in the 2016 fishing year. The 2016 fishing seasons for the applicable sectors for these species and species groups in the Puerto Rico management area of the EEZ are closed at the times and dates listed below. These closures remain in effect until the 2017 fishing seasons begin at 12:01 a.m., local time, January 1, 2017.

- The commercial sector for triggerfish and filefish, combined, is closed effective at 12:01 a.m., local time, October 16, 2016. Triggerfish and filefish, combined, include ocean (*Canthidermis sufflamen*), queen (*Balistes vetula*), and sargassum triggerfish (*Xanthichthys ringens*), scrawled (*Aluterus scriptus*) and whitespotted filefish (*Cantherhines macrocerus*), and black durgon (*Melichthys niger*);
- The recreational sector for jacks is closed effective at 12:01 a.m., local time, November 4, 2016. Jacks include horse-eye (*Caranx latus*), black (*Caranx lugubris*), almaco (*Seriola rivoliana*), bar (*Caranx ruber*), and yellow jack (*Caranx bartholomaei*), greater amberjack (*Seriola dumerili*), and blue runner (*Caranx crysos*);
- The commercial sector for wrasses is closed effective at

12:01 a.m., local time, November 16, 2016. Wrasses include hogfish (*Lachnolaimus maximus*), puddingwife (*Halichoeres radiatus*) and Spanish hogfish (*Bodianus rufus*);

- The commercial sector for Snapper Unit 2 is closed effective at 12:01 a.m., local time, November 26, 2016. Snapper Unit 2 include queen (*Etelis oculatus*) and cardinal snapper (*Pristipomoides macrophthalmus*);
- The commercial and recreational sectors for spiny lobster (*Panulirus argus*) are closed effective at 12:01 a.m., local time, December 10, 2016; and
- The commercial sector for parrotfishes is closed effective at 12:01 a.m., local time, December 19, 2016. Parrotfishes include queen (*Scarus vetula*), princess (*Scarus taeniopterus*), striped (*Scarus iseri*), redband (*Sparisoma aurofrenatum*), redfin (*Sparisoma rubripinne*), redtail (*Sparisoma chrysopterus*), and stoplight parrotfish (*Sparisoma viride*).

During the Puerto Rico commercial sector closures announced in this temporary rule, the commercial sectors for the indicated species or species groups are closed. All harvest

or possession of the indicated species or species group in or from the Puerto Rico management area is limited to the recreational bag and possession limits specified in § 622.437, and the sale or purchase of the indicated species or species group in or from the Puerto Rico management area is prohibited. During the Puerto Rico recreational sector closure for jacks announced in this temporary rule, the jacks recreational sector is closed, and the recreational bag and possession limits for jacks in or from the Puerto Rico management area are zero.

During the spiny lobster closure in the Puerto Rico management area, both the commercial and recreational sectors for spiny lobster are closed. The harvest, possession, purchase, or sale of spiny lobster in or from the Puerto Rico management area is prohibited. The bag and possession limits for spiny lobster in or from the Puerto Rico management area are zero.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of the species and species groups included in this temporary rule, in the EEZ off Puerto Rico, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.12(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The AA finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the ACLs and AMs for these species and species groups have been subject to notice and comment, and all that remains is to notify the public that the ACLs were exceeded and that the AMs are being implemented for the 2016 fishing year. Prior notice and opportunity for public comment on this action would be contrary to the public interest, because many of those affected by the length of the commercial and recreational fishing seasons, including commercial operations, and charter vessel and headboat operations that book trips for clients in advance, need

advance notice to adjust their business plans to account for the reduced commercial and recreational fishing seasons.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 25, 2016.

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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